

**REMARKS**

Claims 1-20 are pending in this application and stand rejected. Claims 1-20 have been amended to improve the form and readability of those claims.<sup>1</sup> Claims 1 and 11 are independent.

The revisions to claims 1-20 involve only matters of style, and do not relinquish any subject matter.

Claims 1-20 have been rejected under 35 U.S.C. § 103 as being unpatentable over what the Examiner referred to as "admitted prior art" in view of U.S. Patent No. 6,273,606 B1 to Dewaele, et al. Applicants respectfully traverse this rejection and submit the following arguments in support thereof.

Applicants' invention, as described in claim 1, is directed to an X-ray film cassette that includes a rectangular cartridge body having a front wall, a pair of side walls and a back wall, a rectangular cover hinged at one side thereof to the back wall of the body by a hinge, a latch provided at one side of the cover opposite to the hinged side, the latch being manually operable to be moved from a latching position to a released position, and a slot provided in the front wall of the body to be engaged with the latch of the cover. At least two imaging plates are provided for recording an image generated by an X-ray source, and these imaging plates overlap to prevent a loss of diagnostic information.

According to claim 11, Applicants' invention is also drawn to an X-ray cassette that has a rectangular cartridge body with a front wall, a pair of side walls and a back wall, a

---

<sup>1</sup> This Amendment has been prepared utilizing the format prescribed in the Office of Patent Legal Administration - Pre-OG Notice entitled "Amendments in a Revised Format Now Permitted", signed by the Deputy Commissioner for Patent Examination Policy on January 31, 2003 and available on the U.S. Patent and Trademark Office Website.

rectangular cover hinged at one side thereof to the back wall of the body by a hinge, a latch provided at one side of the cover opposite to the hinged side, the latch being manually operable to be moved from a latching position to a released position, a slot provided in the front wall of the body to engage the latch of the cover, and at least two imaging plates for recording an image generated by an X-ray source on a photostimulable phosphor sheet. The two imaging plates overlap to prevent a loss of diagnostic information.

Thus, it will be appreciate that the present invention provides for a cassette having at least two overlapping imaging plates.

Insofar as the Office Action refers to "admitted prior art", it is noted that the Office Action does not specifically identify what is deemed to constitute such "admitted prior art". A specific identification of what is alleged to constitute "admitted prior art" is required and requested.

For the sake of advancing prosecution only, it will be presumed that the Examiner, by the term "admitted prior art", intended to refer to the "Background of the Invention" at pages 1-4 of the specification. This presumption is not, however, an admission that what is described in the Background of the Invention is in fact prior art.

It is respectfully submitted that no admitted prior art suggests the construction of the claimed cassette, for example, with regard to the cover and body arrangement.

Next, it should be noted that the Office Action **acknowledges** that "the admitted prior art fails to teach at least two imaging plates or photostimulable [sic] phosphor sheet overlapping so as to prevent the loss of diagnostic information" (Office Action, p. 3).

This rejection is respectfully traversed because it does not accurately characterize Dewaele. Dewaele is said to teach at col. 1, lines 27-38, an X-ray cassette having at least two imaging plates that overlap. However, the cited portion of Dewaele is part of the background **criticizing** other devices, and does not describe Dewaele's invention. In fact, the section of Dewaele cited in the Office Action suggests that it would be **undesirable** to have a cassette in which storage phosphor screens overlap, because that would result in underexposure of the overlapped portion of those screens.

In this regard, it should be noted that the law requires the teachings of a reference **as a whole** be considered, including those teachings which lead away from the claimed invention. In re Wesslau, 353 F.2d 238, 241, 147 USPQ 391, 393 (CCPA 1965); see also In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992); Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 796 F.2d 443, 448; 230 USPQ 416, 419-20 (Fed. Cir. 1986), cert. denied, 484 U.S. 823 (1987).

Considering Dewaele as a whole, it is respectfully submitted that one skilled in the art seeking to improve upon a known cassette would be led **away** from the claimed invention by Dewaele, since Dewaele **disparages** the use of more than one screen in a single cassette, which is a part of this invention.

However, even if one skilled in the art were to apply Dewaele to the admitted prior art device, that still would not suggest the claimed invention. Dewaele's invention, as set out in the Detailed Description of the Invention at col. 4, lines 9-34 and Figs. 1A-3C, uses multiple cassettes 4 arranged in different overlapping manners, "each cassette holding a recording member" (col. 4, lines 10-11). However, while the cassettes themselves may overlap,

as shown in Figs. 1A-3C, it should be understood that each cassette has a single imaging plate. This means that Dewaele still does not suggest having two overlapping imaging plates in one cassette, as is claimed.

With regard to claims 5 and 15, which provide that the imaging plates of claims 1 and 11, respectively, are separated by a "Z" fold of material to prevent the overlapping imaging plates from coming into contact, Applicants respectfully disagree with the suggestion in the Office Action that this feature is taught by the "admitted prior art". The only discussion of a "Z" fold in the specification is found in the Detailed Description of the Invention (page 6, lines 1-15). It is clear from this passage that Applicants consider the Z fold to be part of their invention.

In fact, the only portion of this application which arguably could be considered to contain an admission regarding the prior art is the Background of the Invention at pages 1-4. Nowhere in that text, however, is there any discussion of a Z-folded member. Accordingly, the rejection of claims 5 and 15 is not well-taken and must be withdrawn.

Applicants wish to point out that, assuming the "admitted prior art" is only the Background of the Invention, there is no support for the rejection of claims 3, 10, 13 and 20 on grounds the admitted prior art teaches the system working in an FCR 5000 CR Reader imaging device or a Fuji CR Reader imaging device, since that portion of the application does not even mention such devices. These claim rejections therefore must be withdrawn.

Likewise, with regard to claims 4 and 14, there is no discussion in the "admitted prior art" of indicia marks as described in those claims. Accordingly, the asserted ground for the rejection of claims 4 and 14 is not well-taken, and must be withdrawn.

Turning to claims 6 and 16, which describe the size of the imaging plates, there is no suggestion in the "admitted prior art" of the imaging plate size, much less the size claimed. Only the Detailed Description of the application discussed this size. Accordingly, the alleged basis for this claim rejection is in error and cannot be maintained.

It also will be appreciated that claims 2-10 and 12-20 all depend from, and so incorporate by reference all the features of, claims 1 or 11, including those features already shown to avoid the cited art. These claims therefore patentably distinguish over the cited art at least for the same reasons as claims 1 and 11.

For all the foregoing reasons, Applicants respectfully submit that the present invention is not suggested by the cited art. Accordingly, favorable reconsideration and withdrawal of the foregoing claim rejections are respectfully requested.

#### **INFORMATION DISCLOSURE STATEMENT**

In compliance with the duty of disclosure under 37 C.F.R. § 1.56 and pursuant to 37 C.F.R. §§ 1.97 and 1.98, the Examiner's attention is directed to the documents listed on the enclosed Information Disclosure Statement by Applicant form (PTO/SB/08a).

It is respectfully requested that the above information be considered by the Examiner and that a copy of the enclosed Information Disclosure Statement by Applicant form (PTO/SB/08a) be returned indicating that such information has been considered.

Since this Information Disclosure Statement is being cited in accordance with 37 C.F.R. § 1.97(c), the Commissioner is authorized to charge the required fee under 37 C.F.R. § 1.17(p) (\$180.00), as well as any other fees that is now or which may hereafter be required during the pendency of this application, to Deposit Account 19-4709.

CONCLUSION

Applicants respectfully submit that all of the outstanding claim rejections have been overcome. Applicants further submit that all claims pending in this application are patentable over the prior art. Favorable reconsideration and withdrawal of those rejections is respectfully requested.

Early and favorable action is earnestly solicited.

Respectfully submitted,

*David L. Schaeffer, Reg. No. 36,120*

*for* David L. Schaeffer  
James J. DeCarlo

Registration No. 36,120

Attorney for Applicants

STROOCK & STROOCK & LAVAN LLP

180 Maiden Lane

New York, New York 10038-4982

(212) 806-6660